

## Internal Revenue Service, Treasury

## § 57.4

provisions of subtitle F that apply to assessable penalties imposed under chapter 68.

(3) *Controlled groups.* Each member of a controlled group that is required to provide information to the controlled group's designated entity for purposes of the report required to be submitted by the designated entity on behalf of the controlled group is jointly and severally liable for any penalties described in this paragraph (b) for any reporting failures by the designated entity.

#### § 57.4 Fee calculation.

(a) *Fee components—(1) In general.* For every fee year, the IRS will calculate a

covered entity's allocated fee as described in this section.

(2) *Calculation of net premiums written.* Each covered entity's allocated fee for any fee year is equal to an amount that bears the same ratio to the applicable amount as the covered entity's net premiums written for health insurance of United States health risks during the data year taken into account bears to the aggregate net premiums written for health insurance of United States health risks of all covered entities during the data year taken into account.

(3) *Applicable amount.* The applicable amounts for fee years are—

Fee year	Applicable amount
2014 .....	\$8,000,000,000
2015 .....	\$11,300,000,000
2016 .....	\$11,300,000,000
2017 .....	\$13,900,000,000
2018 .....	\$14,300,000,000
2019 and thereafter .....	The applicable amount in the preceding fee year increased by the rate of premium growth (within the meaning of section 36B(b)(3)(A)(ii)).

(4) *Net premiums written taken into account—(i) In general.* A covered entity's net premiums written for health insur-

ance of United States health risks during any data year are taken into account as follows:

Covered entity's net premiums written during the data year that are:	Percentage of net premiums written taken into account is:
Not more than \$25,000,000 .....	0
More than \$25,000,000 but not more than \$50,000,000 .....	50
More than \$50,000,000 .....	100

(ii) *Controlled groups.* In the case of a controlled group, paragraph (a)(4)(i) of this section applies to all net premiums written for health insurance of United States health risks during the data year, in the aggregate, of the entire controlled group, except that any net premiums written by any member of the controlled group that is a non-profit corporation meeting the requirements of § 57.2(b)(2)(iii) or a voluntary employees' beneficiary association meeting the requirements of § 57.2(b)(2)(iv) are not taken into account.

(iii) *Partial exclusion for certain exempt activities.* After the application of paragraph (a)(4)(i) of this section, if the covered entity (or any member of a controlled group treated as a single covered entity) is exempt from Federal

income tax under section 501(a) and is described in section 501(c)(3), (4), (26), or (29) as of December 31st of the data year, then only 50 percent of its remaining net premiums written for health insurance of United States health risks that are attributable to its exempt activities (and not to activities of an unrelated trade or business as defined in section 513) during the data year are taken into account. If an entity to which this partial exclusion applies is a member of a controlled group, then the partial exclusion applies to that entity after first applying paragraph (a)(4)(i) on a pro rata basis to all members of the controlled group.

(b) *Determination of net premiums written—(1) In general.* The IRS will determine net premiums written for health insurance of United States health risks

for each covered entity based on the Form 8963, “Report of Health Insurance Provider Information,” submitted by each covered entity, together with any other source of information available to the IRS. Other sources of information that the IRS may use to determine net premiums written for each covered entity include the SHCE, which supplements the annual statement filed with the NAIC pursuant to State law, the annual statement itself or the Accident and Health Policy Experience filed with the NAIC, the MLR Annual Reporting Form filed with the Center for Medicare & Medicaid Services’ Center for Consumer Information and Insurance Oversight of the U.S. Department of Health and Human Services, or any similar statements filed with the NAIC, with any State government, or with the Federal government pursuant to applicable State or Federal requirements.

(2) *Presumption for United States health risks.* For any covered entity that files the SHCE with the NAIC, the entire amount reported on the SHCE as direct premiums written will be considered to be for health insurance of United States health risks as described in § 57.2(n) (subject to any applicable exclusions for amounts that are not health insurance as described in § 57.2(h)(2)) unless the covered entity can demonstrate otherwise.

(c) *Determination of amounts taken into account.* (1) For each fee year and for each covered entity, the IRS will calculate the net premiums written for health insurance of United States health risks taken into account during the data year. The resulting number is the numerator of the fraction described in paragraph (d)(1) of this section.

(2) For each fee year, the IRS will calculate the aggregate net premiums written for health insurance of United States health risks taken into account for all covered entities during the data year. The resulting number is the denominator of the fraction described in paragraph (d)(2) of this section.

(d) *Allocated fee calculated.* For each covered entity for each fee year, the IRS will calculate the covered entity’s allocated fee by multiplying the applicable amount from paragraph (a)(3) of this section by a fraction—

(1) The numerator of which is the covered entity’s net premiums written for health insurance of United States health risks during the data year taken into account (described in paragraph (c)(1) of this section); and

(2) The denominator of which is the aggregate net premiums written for health insurance of United States health risks for all covered entities during the data year taken into account (described in paragraph (c)(2) of this section).

#### § 57.5 Notice of preliminary fee calculation.

(a) *Content of notice.* Each fee year, the IRS will make a preliminary calculation of the fee for each covered entity as described in § 57.4. The IRS will notify each covered entity of its preliminary fee calculation for that fee year. The notification to a covered entity of its preliminary fee calculation will include—

(1) The covered entity’s allocated fee;

(2) The covered entity’s net premiums written for health insurance of United States health risks;

(3) The covered entity’s net premiums written for health insurance of United States health risks taken into account after the application of § 57.4(a)(4);

(4) The aggregate net premiums written for health insurance of United States health risks taken into account for all covered entities; and

(5) Instructions for how to submit a corrected Form 8963, “Report of Health Insurance Provider Information,” to correct any errors through the error correction process.

(b) *Timing of notice.* The IRS will specify in other guidance published in the Internal Revenue Bulletin the date by which it will send each covered entity a notice of its preliminary fee calculation.

#### § 57.6 Error correction process.

(a) *In general.* Upon receipt of its preliminary fee calculation, each covered entity must review this calculation during the error correction period. If the covered entity identifies one or more errors in its preliminary fee calculation, the covered entity must timely submit to the IRS a corrected Form